

The Asia Foundation

Legal Accountability and Dispute Resolution (LADR) Program (Grant Agreement No. 492-G-SS-98-00032-00)

January 1, 2004 – June 30, 2004

Summary

This semi-annual report covers activities conducted by The Asia Foundation during the period January 2004 through June 2004 under the Legal Accountability and Dispute Resolution (LADR) program, which is part of the U.S. Agency for International Development's \$ 3,070,358 grant support for The Asia Foundation from September 14, 1998 through September 30, 2005. The activities supported through this initiative are designed to promote alternative dispute resolution processes within and outside the formal judicial system, ensure transparency and accountability in the judiciary, build stable constituencies for judicial reform, and strengthen public access to information in order to increase transparency and improve access to justice. Drawing on its long-standing partnerships with the courts, lawyers' groups and other Philippine stakeholders in addressing important legal and judicial reform issues, The Asia Foundation implements this program through four major components, namely: (1) institutionalizing alternative dispute resolution processes; (2) ensuring judicial transparency and accountability; (3) building constituencies for reform; and (4) strengthening public access to information and access to justice.

The Asia Foundation submitted a copy of the LADR Semi-Annual Report covering the period from July 2003 to December 2003 to the Development Experience Clearinghouse on April 23, 2004, as instructed under the Office of Regional Procurement (ORP) No. 18 dated August 19, 2003 and ORP No. 20 dated February 2, 2004.

Between January and June 2004, The Asia Foundation continued to work with its partner institutions to implement projects that promote and strengthen alternative dispute resolution processes within and outside the formal judicial system as a means to decongest court dockets, and support projects to ensure transparency and accountability in the judiciary. After USAID's approval for program expansion in August 2003, the Foundation continued to explore initiatives to build stable constituencies for reform and to strengthen public access to information to increase transparency and access to justice.

Initiatives on alternative dispute resolution (ADR) processes were undertaken during this period primarily through partnerships with (1) the Conflict Resolution Group, in collaboration with the Trade & Investment Policy Analysis & Advocacy Support Project /Philippine Exporters Confederation, Inc., to promote the use of mediation by the business community; (2) the Cebu Mediation Foundation, Inc., to increase the awareness of Cebu's legal and business community about mediation; and, (3) the Philippine Chamber of Commerce and Industry, to advocate for the use of alternative dispute

resolution in local chambers nationwide. Apart from these grant activities, The Asia Foundation hosted ADR *ad hoc* meetings that brought together active partners in ADR to discuss the possibility of holding a national conference on mediation for professional enhancement of mediators and the promotion of ADR in the country. It was during this period, as well, that the ADR Bill, which was drafted with Foundation support, was signed into law by President Gloria Macapagal-Arroyo on April 1, 2004.

Efforts to support judicial transparency and accountability were undertaken during this period through the Foundation's partnership with the University of the Philippines Center for Women's Studies Foundation, Inc., to conduct comprehensive policy action research on gender bias in the courts as manifested by court behavior and verbal interaction, in the physical arrangement of court rooms, and in the day-to-day implementation of court rules and procedures.

To build constituencies for the judicial reform, the Foundation forged a partnership with the Asian Institute of Journalism and Communication to enhance and strengthen the working relationship between the judiciary and the media in order to ensure a balance between transparency and judicial confidentiality and independence.

Finally, efforts to strengthen public access to information to increase transparency and access to justice were undertaken through partnerships with the Balay Alternative Legal Advocates for Development in Mindanao to institutionalize mechanisms to ensure greater access to justice at the barangay level in the province of Bukidnon; the Cyberspace Policy Center in the Asia Pacific, in collaboration with the National Telecommunications Commission, to improve, with the use of technology, public-private sector collaboration at various stages of rulemaking, while allowing public input at various stages of the process; and the Integrated Bar of the Philippines for its nationwide jail decongestion project.

During the period covered by this report, The Asia Foundation awarded eighteen new grants to sixteen partners focusing on legal accountability and dispute resolution. Of the ten grants issued in the preceding period, seven are still ongoing and the rest were completed as of June 2004.

Summary of Significant Activities and Outcomes of the Period

Towards the Institutionalization of Alternative Dispute Resolution Processes

Alternative Dispute Resolution in Business. Addressing the business community's slow acceptance of mediation and other Alternative Dispute Resolution processes, The Foundation awarded a grant to the Conflict Resolution Group to promote the use of mediation by the private sector through existing trade and business organizations. The Conflict Resolution Group will be holding a series of forums and workshops for members of major trade and business organizations that will lead to the forging of a covenant stipulating the preference for the use of mediation, prior to litigation. The forums are

ongoing activities to help facilitate the establishment of an Alternative Dispute Resolution Section within the business and trade organizations, which will consist of a pool of mediators from the members of participating organizations. Further, this project will conduct a communications campaign through radio and television interviews, press releases and news features aimed at heightening public awareness, acceptance, and increased support for the use of ADR in business.

During this reporting period, the Conflict Resolution Group, in collaboration with the Trade & Investment Policy Analysis & Advocacy Support Project /Philippine Exporters Confederation, Inc., Cyberspace Policy Center in the Asia Pacific and the Philippine Judicial Academy, organized a two-day Manila Road Show on Alternative Dispute Resolution to promote the use of mediation within the private, as well as the public sectors. The activity featured different forums highlighting online dispute resolution, ADR in business and government, court-annexed mediation and the establishment of ADR units in law firms and government agencies. Loong Seng Onn, Executive Director of the Singapore Mediation Centre (SMC), Singapore's flagship mediation organization, was the primary resource person invited to speak during the two-day road show. This activity resulted in a covenant forged by members of major trade and business organizations to promote and use mediation and to establish mediation units in their respective organizations. The training of business mediators from participating business organizations in preparation for the establishment of their respective mediation units is set to begin in July 2004.

Covenant Signing on the Use of Alternative Dispute Resolution (ADR) Among the Business Sector

As a continuing effort to promote the use of alternative dispute resolution (ADR) mechanisms in the business sector, The Conflict Resolution Group, in coordination with the Trade & Investment Policy Analysis & Advocacy Support Project /Philippine Exporters Confederation, Inc. (TAPS/PhilExport) and the Employers Confederation of the Philippines, held a covenant signing ceremony with nine business groups on the occasion of the 25th National Conference of Employers on April 21, 2004. The Employers Confederation of the Philippines, Personnel Managers Association of the Philippines, Federation of Filipino-Chinese Chambers of Commerce and Industry, Inc., Philippine Chamber of Commerce and Industry, Federation of Philippine Industries, Philippine Exporters Confederation and Philippines Inc. signed the covenant to signify their commitment to actively promote the use and development of alternative dispute resolution among the business sector; push the establishment of Business ADR Units; and lead in increasing public awareness, acceptance, and use of ADR in the Philippines. This covenant further gives more meaning to the recent ADR Law which discourages litigation in order to aid in decongesting court dockets. The covenant is a component of The Conflict Resolution Group's "ADR in Business" project, made possible through the USAID-funded Legal Accountability and Dispute Resolution Program of The Asia Foundation.

Integrated Bar of the Philippines -Cebu ADR Forum cum Manila Road Show with Business and Other Community Leaders. Following the Manila Road Show on Alternative Dispute Resolution, the Cebu Mediation Foundation, Inc., in coordination with the Conflict Resolution Group, carried out a one-day ADR Forum in Cebu to

promote various alternative modes of non-court and out-of-court dispute resolution. The activity, which principally targeted members of the Integrated Bar of the Philippines (IBP) of Cebu Province and the business community, also included academics, human rights practitioners, community leaders, and ADR practitioners involved in both court and non-court disputes. Topics in the forum in Cebu covered the benefits of Alternative Dispute Resolution in business and government; development of ADR in Asia; the growing practice of Collaborative Law (via video conference with CDR Associates of Colorado); the impact of the ADR Act of 2004; and, establishment of ADR Unit in law firms. The completed activity was a significant step in promoting alternative dispute resolution in the legal and business community of Cebu.

Mediators in the Service of the Cebu Chamber of Commerce. An initiative of the Cebu Mediation Foundation, Inc., this project will primarily assist Cebu's business community in increasing its awareness of the advantages of using mediation and other ADR methods to resolve conflicts in business. It aims to set up a mediation unit within the Cebu Chamber of Commerce and Industry; develop the Cebu Chamber of Commerce's business conflicts mediations systems; and train and accredit, at most, thirty professional mediators among its members to service the needs of the Cebu Chamber of Commerce. Since the end of this reporting period, thirty-seven mediators have been trained, while the Cebu Chamber of Commerce business conflict mediation system and the Cebu Chamber of Commerce Mediation Desks were recently launched in June 2004.

Expanding Business Sector Awareness and Use of Alternative Dispute Resolution Mechanisms (Component One). Drawing on a commitment to expand initiatives to promote alternative dispute resolution mechanisms as means to resolve business conflicts, the Philippine Chamber of Commerce and Industry intends to implement a series of activities to promote awareness and accelerate acceptance of ADR, particularly mediation, as an alternative to court litigation and to promote out-of-court settlements of business disputes. The Foundation gave this grant to the Philippine Chamber of Commerce and Industry for the conduct of a two-day National Strategic Planning Workshop in March 2004 for its one hundred thirty-four officers and members (90 Local Chamber Presidents, 19 Regional Governors, 5 Area Vice Presidents and 20 Board Members) and selected Committee Chairs. Specifically, Foundation support for this project focused on the Alternative Dispute Resolution aspects of the activity, which were discussed during the ADR workshop in the afternoon session of the first day, and further highlighted during the small group dialogues on ADR right after the workshop. By the end of the activity, the Philippine Chamber of Commerce and Industry was able to increase its members' awareness and appreciation of ADR, include ADR in the work programs of local chambers and at the same time identify focal persons tasked to initiate and oversee relevant ADR activities.

Philippine Public Interest Environmental Law Roundtable. This project gathered lawyers, paralegals engaged in public interest environmental law and law students for a two-day Philippine Public Interest Environmental Law Roundtable, in conjunction with the 4th Public Interest Environmental Law Conference, to discuss the current policy

environment and access to resources, as well as to share experiences and strategies on dispute resolution. Foundation support for this project focused on the Alternative Dispute Resolution aspects of the activity that were discussed during the presentation of relevant environmental laws and issues during the first day, and further heightened during the ADR workshops of the second day. The completed activity increased awareness of environmental law advocates about the various modes of alternative dispute resolution that may be useful in resolving environmental disputes.

Regional Mediation Training and Establishment of the Philippine Mediation Center in Cagayan de Oro City. The success of court-annexed mediation in selected courts in Metro Manila, Cebu, and Davao City encouraged the Philippine Judicial Academy to pursue expansion of court-annexed mediation in other judicial areas of the country. Supported by the Chamber of Commerce and the local government unit of Cagayan de Oro, PhilJA initiated the launch and institutionalization of mediation in all the first and second level courts in this province. This grant will enable the Philippine Judicial Academy (PhilJA), in coordination with the Office of the Court Administrator and the Philippine Mediation Center, to continue its efforts to promote the use of mediation in the courts through the conduct of a training program on mediation in Cagayan de Oro. As of June 2004, PhilJA completed pre-establishments activities, including the recruitment of mediators, organizing initial meetings with stakeholders, and scouting for office space for the Philippine Mediation Center Unit in Cagayan de Oro. Training programs and the establishment of the mediation unit are expected to take place in August 2004.

Evaluation of Court-Referred Mediation, Refresher Courses for Mediators, and Production of Mediation Video. The Foundation awarded this grant in July 2003 primarily to support an evaluation of the Philippine Judicial Academy's Mediation Project. Prior to this reporting period, PhilJA conducted a refresher course for accredited mediators, finished writing the scripts for a mediation video that will be used for its training activities and modified the project evaluation component through the expert assistance of the Social Weather Stations. During this reporting period, three mediation videos were produced with the technical assistance of EDIThink Production. These mediation videos were shown during the evaluation workshops in Metro Manila, Cebu City, and Davao City. After the conduct of a focus group discussion on the design of the survey questionnaire, Social Weather Stations carried out a mail-in survey, as well as on-site surveys with judges, lawyers, mediators, and parties who have experienced court-referred mediation. PhilJA also conducted evaluation workshops on the Mediation Project in the Trial Courts in Davao City, Cebu City and Metro Manila. Results of the survey and the evaluation workshops will be discussed in the Action Planning Workshop scheduled to take place July 26-27, 2004.

Expansion of the Department of Justice's Mediation Project. The Foundation provided support in September 2003 to the Conflict Resolution Group to expand the development and use of mediation by prosecutors and public attorneys in areas with the largest case loads, namely, Metro Manila, Baguio City, Bacolod City and Davao City. Due to problems concerning the availability of prosecutors and public attorneys in Bacolod, the

Conflict Resolution Group relied on Cebu prosecutors and public attorneys, who previously had expressed an interest in joining the training. In March 2004 The Asia Foundation and the Department of Justice signed a Memorandum of Understanding to fully implement the project, which is now geared toward increasing the capacity of the Department of Justice to handle mediation. As of June 2004, the Conflict Resolution Group and the Department of Justice have conducted weeklong mediation training programs (forty classroom hours) in the cities of Pasig, Makati, Baguio, Cebu and Davao for a total of 240 DOJ officials. The training programs were followed by two-week internships, where participants were given the opportunity to mediate actual cases and document their respective experiences in mediation. The Pasig City internship alone led to the settlement of 170 cases out of a total of 175 cases -- a 97% success rate. Most of the cases involved bouncing checks. In the three areas of Metro Manila, 479 of 685 cases were settled during the two-week internship.

One final training and internship program is slated to take place in July 2004.

Signing of Memorandum of Understanding with the Department of Justice

To signify its strong commitment to prioritize the institutionalization of alternative dispute resolution in the National Prosecution Office, Public Attorney's Office and the Government Corporate Counsel, the Department of Justice (DOJ) signed a memorandum of understanding with The Asia Foundation that will facilitate the full implementation of the Expansion of the DOJ Mediation project. The project, initiated in partnership with the Conflict Resolution Group (CoRe), trains prosecutors and public attorneys in the practice of mediation. Mediation in the Department of Justice will complement the court-referred mediation initiative of the Supreme Court and aid in de-clogging court dockets. Following the department's successful pilot project in Manila, Quezon City, Caloocan and Valenzuela in 2001, the DOJ has expanded the mediation project to five more cities: Makati, Pasig, Baguio, Cebu, and Davao. DOJ Secretary Merceditas Gutierrez, The Asia Foundation Representative Steven Rood, and CoRe Group President Anabelle Abaya were present during the signing held at the Department of Justice on March 22, 2004 via a press conference. The signing of the Memorandum of Understanding generated a good amount of publicity that increased public awareness and support for the current mediation project. With the hard work and dedication of the Department under the auspices of Secretary Gutierrez, this mediation project, which is made possible through the USAID-funded Legal Accountability and Dispute Resolution program, will result in swifter and more satisfactory settlements of cases involving bouncing checks, estafa, reckless imprudence, and other minor cases flooding the courts nationwide.

Online Dispute Resolution Project. In September 2003, The Asia Foundation awarded a grant to the Cyberspace Policy Center for the Asia-Pacific to develop and apply in the Philippine setting the complementary concepts of "multi-door courthouse" and "online dispute resolution (ODR)" in the areas of franchise, e-commerce, and consumer-related disputes.¹ Foundation support enabled the Center to implement the program design phase

¹ "Multi-door courthouse" is an alternative dispute resolution concept that envisions a large "courthouse" with multiple ADR "doors" or processes of referral to an appropriate dispute resolution process, which includes conciliation, mediation, arbitration, and social services. "Online dispute resolution" (ODR), on

of the project. During this reporting period, the Cyberspace Policy Center completed the process mapping of the “multi-door courthouse,” which involves the resolution of key issues pertaining to the legal instruments necessary to run the system; communication linkages among the disputants, courts and the ADR service providers; and development of system design and software with the technical assistance of Microsoft Corporation. Consultation sessions with concerned industry groups and relevant government agencies were conducted. In March 2004, the 1st National Conference on Online Dispute Resolution was held to provide lawyers, mediators, businessmen and government officials with an overview of online dispute resolution. In cooperation with the Philippine Dispute Resolution Center, Online Dispute Resolution Training is scheduled in July 2004 to train the mediators of the Department of Trade and Industry on online dispute resolution and electronic commerce. The Cyberspace Policy Center is expected to submit recommendations for the implementation of a one-year pilot phase in select urban centers for the use of the ODR in disputes beginning in August 2004.

Engendering the Barangay Justice System: Feminist Legal Action Research. The Foundation provided a grant to the Women’s Legal Bureau to set the groundwork for a larger initiative to address gender issues in the barangay justice system by looking at how the system addresses gender-based crimes in one Metro Manila community. All of the data gathering activities, which included three focus group discussions, four community education sessions, and a legal aid clinic, were completed prior to this reporting period. During January 2004 validation and presentation of the findings were accomplished. Barangay officials and representatives from the Barangay Women’s Desk and Women’s Crisis Center affirmed the research findings, emphasizing the need for more information materials and training for them to better handle cases of violence against women in the community. Research recommendations include generating more knowledge on women and the barangay justice system in different communities; developing research that would lead to standardization of alternative dispute practice within the barangay justice system; and developing and printing training modules on topics such as women’s rights, women and the law, and skills development on alternative dispute resolution strategies.

Judicial Transparency and Accountability

Video Production on the Conduct of Pre-Trial in Civil and Criminal Cases and the Use of Deposition-Discovery Measures. Studies, such as the World Bank funded Analysis of the Caseload and Semestral Dockets of the Lower Courts, revealed that one of the major causes of backlog and the slow-pace of Philippine trials is the failure to use deposition and discovery measures. Thus, in line with the Supreme Court’s mission of promoting effective and efficient disposition of cases, the Office of the Court Administrator intends to conduct a series of training activities for first- and second-level judges in the country, and for clerks of the court in the National Capital Region on the effective use of pre-trial

the other hand, specifically utilizes the Internet and related technologies to resolve disputes, or at least assist in their resolution.

and deposition-discovery methods to abbreviate court proceedings, ensure prompt case disposal, and decongest court dockets. There are currently 1,465 first and second level judges of the different judicial regions in the country and 304 clerks of court in the National Capital Region.

This grant specifically supports the preparatory and production aspects of five video presentations on the use of pre-trial procedures in civil and criminal cases in the first and second level courts and the use of depositions and other modes of discovery procedures. The video presentations will be used as demonstration materials during the actual training activities which are targeted for next year. During this reporting period, the Office of the Court Administrator began its search for the services of a production outfit. Research and scriptwriting will commence in August 2004, while the video production will be completed by the end of December 2004.

Survey of the Judiciary and the Legal Profession. This grant takes its cue from the 1993-1996 Foundation-sponsored surveys conducted by the Social Weather Stations concerning the opinions and attitudes of judges and of lawyers (the results of which were published in a monograph entitled “Monitoring the State of the Judiciary and the Legal Profession”). Within the context of the current judicial reform program, a replication of the survey is being implemented by the Social Weather Stations to determine if there have been any changes in attitudes and opinions concerning the state of the judiciary and the legal profession, particularly the administration of justice and judicial problems and solutions.

Prior to this reporting period, eight focus group discussions with government, private, and public interest lawyers, as well as lower court judges were organized. As of this reporting period, all respondents for the lawyer’s survey were interviewed and a total of 61% of the mail-in survey questionnaires sent to judges were received. Processing of the data is ongoing. Survey results will be presented to the judiciary and the legal profession for consideration in the ongoing judicial reform program of the Supreme Court sometime in July or August 2004.

Electronic Learning Pilot Project for the Judiciary. The Foundation provided support to the Philippine Judicial Academy in June 2003 to initiate an eLearning strategy to address its continuing legal and skills training needs. PhilJA sought the assistance of Crimson Logic, a leading application service provider in the Asia-Pacific that offers electronic learning solutions to various sectors, to develop a framework for collaboration starting with a pilot Continuing Professional Development portal, which will enable participants to sample a representative on-line course. Marriage Annulment, specifically that of psychological incapacity, and Electronic Commerce have been identified as the initial judicial courses.

Prior to this reporting period, Crimson Logic, with substantive input from PhilJA, completed the development of the initial two electronic learning modules. These subsequently were reviewed by the Academic Council of the Philippine Judicial

Academy. During this reporting period, substantial changes were recommended by PhilJA due to amendments to the laws that have been made. The Electronic Evidence module is being finalized, and is tentatively scheduled for a pilot roll-out in August 2004. The Psychological Incapacity module is still being prepared and is expected to be finalized in August 2004.

Policy Action Research to Enhance the Gender Responsiveness of Family Courts.

Initiated by the University of the Philippines Center for Women's Studies Foundation, Inc., this project represents the most comprehensive policy action research to date on gender bias in the courts, as manifested by court behavior and verbal interaction, in the physical arrangement of the court rooms, and in the day-to-day implementation of court rules and procedures. The Center will use two methods to identify gender bias that permeates the disposition and resolution of cases and to identify factors that impede or constrain the ability of the family courts to address gender issues. First, the Center will conduct a structured observation of court trials in nine selected family courts in the country. Second, it will implement a mail-in survey to ascertain the knowledge, attitudes, behavior and perceptions of family court judges, lawyers, and social workers. By the end of the project, a research report will be published to disseminate the results, specifically targeting judges and lawyers. The report will be formally submitted to the Supreme Court's Committee on Gender for policy review and implementation. The same report will be presented to the Philippine Judicial Academy for reference in order to contextualize and enhance the Academy's gender sensitivity training. The research will also be made available to law colleges in the country for their use in research and classroom teaching.

During this reporting period, the Center for Women's Studies started preparing the questionnaire for the mail-in survey, as well as the instruments for the structured observation of court trials. Collection of lists of family court judges, lawyers and social workers is ongoing. Implementation of the mail-in survey is slated to take place in August 2004, while the structured observation of court trials will begin in October 2004.

Court Monitoring. The Paglilingkod Batas Pangkapatiran Foundation received project support in April 2003 to facilitate the participation of civil society in court reform initiatives through informed and purposive monitoring of courts located in three cities in Mindanao: Davao, Cagayan de Oro and General Santos. As of this reporting period, a monitoring tool has been finalized and a training series for court monitors was organized. After the training, pilot court monitoring in the three cities were conducted and completed as of June 2004. The Asia Foundation anticipates that the results and recommendations arising from the monitoring will be submitted in July 2004.

Building Constituency for Reforms

Strengthening Judiciary-Media Relations. The Asia Foundation provided support to the Asian Institute of Journalism and Communication in its effort to strengthen the working relationship between the judiciary and the media to ensure a balance between judicial

transparency and judicial confidentiality and independence, as well as to promote and sustain substantive multi-sectoral support for an independent, effective and efficient judiciary. This grant seeks to establish and maintain a regular flow of communication between the judiciary and the media in order to enable media practitioners to understand and appreciate the operations of the judicial system; to enlist media organizations, media officials and individual journalists as partners in the Judicial Reform Program of the Supreme Court; and to equip judges and court personnel with media management and media relations knowledge and skills.

During this reporting period, the Asian Institute of Journalism and Communication organized a roundtable discussion for the media and judiciary to establish camaraderie between the two sectors. Four separate seminar workshops for the National, Luzon, Visayas and Mindanao media on judiciary-media relations were conducted in May 2004. A seminar workshop for judges on the same topic will be held in July 2004. Results of the workshops will be incorporated into a manual on judiciary-media relations. The drafting of manuals on court policies relevant to the media and popularized judicial information materials started during this reporting period and are expected to be completed in August 2004.

Media and Judiciary: Towards Better Understanding and Meaningful Partnership

A great jumpstart to the Strengthening the Media-Judiciary Relations project, the Asian Institute of Journalism and Communication (AIJC) organized a roundtable discussion on “Media and Judiciary: Towards Better Understanding and Meaningful Partnership” on March 5, 2004 to foster greater understanding and generate meaningful collaboration between the judiciary and the media. Gathering prominent figures from the media and the judiciary, beginning with Chief Justice Hilario Davide, Jr., the roundtable discussion tackled the perspectives and concerns of each sector on judiciary-media relations and surfaced suggestions on how these can be addressed. The media, represented by Mr. Isagani Yambot, Publisher, Philippine Daily Inquirer; Ms. Jessica Soho, News Director, GMA Network, Inc.; Atty. Napoleon Rama, Publisher, Manila Bulletin; and Ms. Luchi Cruz-Valdes, Vice President for News, ABS-CBN, expressed their concerns on the difficulty in understanding the legal jargon, the problem of establishing sources in the courts, the inconsistencies of the ban on media coverage of the judiciary, the lack of access to and transparency in court decisions, and the *sub judice* rule. The broadcast media rely heavily on visual images and ready information and having little access to the judiciary results in unbalanced stories and misinformation. From the side of the judiciary, Justice Leonardo Quisumbing stressed that the media should primarily work in service of the public (not merely for profit) while Atty. Ismael Khan of the Public Information Office (PIO) of the Supreme Court explained PIO’s legal mandate, functions and responsibilities. The lively and open discussion on the perspectives of both sectors opened doors for better collaboration in AIJC’s future initiatives in strengthening the media and judiciary relations. This project, through the assistance of the USAID-funded Legal Accountability and Dispute Resolution Program of The Asia Foundation, will be organizing seminar-workshops for media practitioners and judges and popularizing technical judicial materials to enhance and strengthen the working relationship of the media and the judiciary.

Alternative Law Groups Roundtable Discussion. To pave the way for the involvement of the Alternative Law Groups, Inc. in the Legal Accountability and Dispute Resolution program of the Foundation, the ALG was given a grant to organize a round table discussion among key leaders of the ALG and representatives of the Foundation where the Legal Accountability and Dispute Resolution program was discussed and possible activities that could be undertaken by the Alternative Law Groups were explored. This activity provided the opportunity for both the Alternative Law Groups and the Foundation to come together and identify judicial reform efforts that could be pursued through the Legal Accountability and Dispute Resolution program. As of June 2004, the Alternative Law Groups and the Foundation are exploring the possibility of conducting an activity that will involve dialogues between various sectors and the judiciary.

Building Sustainable Organizations: The Challenge of Environmental NGOs. With the marked reduction in foreign funding support for environment-related initiatives over the past decade, and in recognition of the need to sustain environmental initiatives, the Environmental Legal Assistance Center was awarded a grant in June 2004 to identify best practices, such as modes of operational efficiency, accountability, transparency and all other institutional mechanisms that help build sustainable and financially vibrant organizations. The Center examined the experiences of the Haribon Foundation, the Legal Rights and Natural Resources Center-Kasama sa Kalikasan, and its own organization to identify these best practices. The anticipated output of this project is a research study detailing the Foundation-supported fundraising activities initiated by the three partners; an evaluation of the success (or failure) of these initiatives; and the lessons learned, as well as recommendations for developing sustainable environmental organizations. The identification and assessment of fundraising vehicles is scheduled to begin in July 2004.

Chamber to Chamber: Dialogues Between the Judiciary and the Business Sector. In September 2004, The Asia Foundation provided support to the Supreme Court in its effort to increase transparency in the judiciary and to open its communication lines with the business sector, a sector that traditionally has had contentious relations with the judiciary. During this reporting period, the Program Management Office of the Supreme Court facilitated the conduct of dialogues between the Judiciary, represented by senior associate justices of the Supreme Court, and the business sector, primarily representatives of foreign and local business chambers, clubs, and associations, in nine different cities nationwide. The dialogues sought to deepen the business sector's insights into the judiciary's role, including the ongoing judicial reform agenda, as well as their concerns regarding the administration of justice in the Philippines. The Judiciary, on the other hand, had agreed to meet with business in order to get input from this sector, particularly with respect to judicial activism manifested in decisions with an economic impact. The dialogues provided a venue for the beneficial exchange of opinions and views on the inter-relationship between the business sector and the judiciary. A final dialogue will be organized in July 2004. An assessment of the issues raised in the dialogues will be tackled at an Action Planning Workshop, also scheduled to take place in July 2004.

Strengthening of Access to Justice Systems and Community Development Agenda Formulation in Fifteen Barangays in the Province of Bukidnon. Recognizing the lack of access to legal assistance among a majority of the communities in Mindanao, the Balay Alternative Legal Advocates for Development in Mindanao received a grant from the Foundation to institutionalize mechanisms that will ensure greater access to justice at the barangay level by involving members of the executive and legislative branches and activating conflict resolution mechanisms. Access will be expanded through the publication of a Manual on People's Development Agenda Formulation; the conduct of regular paralegal clinics and tactic sessions; the conduct of case consultation conferences and the provision of litigation assistance; the conduct of paralegal and barangay justice seminar-workshops; and the conduct of conciliation and mediation process strengthening and capability-building of the *Lupong Tagapamayapa* (a peace-seeking committee created by law in every barangay). The target audiences for the project are the Barangay Agrarian Reform Committee, the Barangay Human Rights Actions Officers and other barangay officials. This project was made possible through partnership with the WorldBank's Development Marketplace Initiatives.

As of this reporting period, BALAOD-Mindanao conducted Focus Group Discussions/ Training Needs Assessments in four barangays of Bukidnon to assess the knowledge of barangay officials about their roles and functions as leaders, and to identify their needs to improve people's access to justice at the barangay level. Basic paralegal training also was conducted in two towns of Bukidnon. Additional paralegal training will be conducted in July 2004.

Internship in Environmental Law. Addressing the need to educate communities on Bantayan Island about environmental laws for the preservation of its marine sanctuaries, the Foundation provided a grant to enable three University of the Philippines College of Law interns to serve a summer internship on Bantayan Island. The program provided them with an opportunity to apply environmental principles that will assist in the protection and rehabilitation of the Visayan Sea. During this reporting period, the interns attended marine conservation workshops; archived legal cases regarding fishery codes and similar municipal ordinances to facilitate the issuance of warrants of arrests in the municipality of Bantayan; and established protocols regarding enforcement, education and engineering modules for the Bantayan Island Marine Sanctuary. Through the intern's legal archiving, owners of large commercial fishing companies were discovered to have outstanding arrest warrants for violating the Fisheries Code of 1998, which prohibits commercial fishing with 15 kilometers of a municipality without a permit. As a result, the owners were subsequently arrested during May 2004. As of June 2004, the interns have completed their internships and are set to submit a video documentary of the accomplishments of the Batas Kalikasan's Visayan Sea Law Enforcement Project, which will be used for Batas Kalikasan's advocacy projects in July 2004.

Pilot Judicial Apprenticeship Program. With the sanction of the Philippine Supreme Court (through *en banc* Resolution A.M. No. 04-04-08-SC dated 27 April 2004), the Foundation issued a grant to the Far Eastern University Institute of Law, on behalf of the Ateneo School of Law, San Beda College of Law, and University of the Philippines College of Law, to support the Court's Pilot Judicial Apprenticeship Program. With the assistance of the Supreme Court's Program Management Office, this program seeks to assist select Metro Manila courts with the greatest backlog to quickly resolve cases and thereby reduce their caseloads. At the same time, this program serves as a mechanism for training future officers of the court for clerkships by training law students in legal research and in exposing them to actual court proceedings.

As of June 2004, the Program Management Office, together with the four participating law schools, organized an orientation workshop on legal research, legal and judicial ethics and court proceedings prior to the commencement of the apprenticeship proper. Forty-four law students subsequently were assigned to assist in selected first- and second-level courts of Makati, Manila and Quezon City for a period of three weeks. The Program Management Office, participating law schools, and courts are currently assessing the recently completed activity. The Foundation anticipates results and recommendations of the assessment will be submitted in July 2004.

Popularization of the Code of Muslim Personal Laws in the Autonomous Region of Muslim Mindanao (ARMM) (Phase II) and Conduct of Focus Group Discussions with Shari'ah Court Judges, Lawyers, and Muslim Communities on the Shari'ah. The Al-Mujadilah Development Foundation received Foundation support in September 2003 to popularize the Code of Muslim Personal Laws² in five areas of the ARMM: Marawi City, Bongao (Tawi-Tawi), Lamitan (Basilan), Jolo (Sulu), and Sultan Kudarat (Maguindanao). Prior to this reporting period, final translation drafts of the Code of Muslim Personal Laws in the Samal and Maguindanao languages, and illustrated primers of the Code in five local languages (Tausug, Maranaw, Yakan, Sama and Maguindanaon) were being reviewed.

As of this reporting period, draft translations of the Code of Muslim Personal Laws in the Samal and Maguindanao languages, and the illustrated primers of the Code in five local languages (Tausug, Maranaw, Yakan, Sama and Maguindanaon) have been finalized. To understand the perspectives and attitudes of Muslim communities, including Shari'ah court judges and lawyers, about the Shari'ah, its significance, and its appropriate role in their lives, focus group discussions with Muslim communities were conducted in the cities of Marawi, Cotabato and Zamboanga. Due to national and local elections in May, and the subsequent high demand for a variety of print campaign materials, Al-Mujadilah had some difficulty contracting a printing company for the primers. Production now is

² Presidential Decree No. 1083 (977), otherwise known as The Code of Muslim Personal Laws (CMPL), provides the rules governing the personal status, marriage and divorce, matrimonial and family relations, succession and inheritance, and property relations of spouses in Muslim communities.

expected to begin in July 2004, with distribution in the five areas of ARMM by the end of September 2004.

Balik Laya: A Jail Decongestion Project. The Foundation awarded this grant to the Integrated Bar of the Philippines in November 2004 to address the problem of jail congestion, which has arisen due to inadequate prison facilities for the corresponding number of prisoners. Lack of representation by lawyers and shortcomings in the justice system have contributed to the increase in the number of overstaying prisoners in the nation's jails. As of December 31, 2003, a total of fifty-five overstaying prisoners have been released through this project. During this reporting period, members of the Bar trained one hundred fifty paralegals on the basic principles of criminal law and procedure. An additional one hundred fifty-five overstaying prisoners also were released. The Integrated Bar of the Philippines requested an extension of the grant period for another six months to utilize its remaining funds. The extension will enable proponents to facilitate the release of another two hundred overstaying detainees and train at least one hundred seventy more paralegals to assist in the project. Training is set to begin in July 2004.

Nationwide Jail Decongestion Project. Building on the success of its "Balik Laya: A Jail Decongestion Project", which was piloted in Manila and Pasay City in 2003, The Asia Foundation provided support to the Integrated Bar of the Philippines to implement a jail decongestion project in selected detention centers in the eight IBP regions nationwide. This grant will enable IBP to conduct nationwide paralegal training seminars on jail decongestion; develop a system for the filing of relevant petitions; and facilitate the release of at least one hundred overstaying detainees per region who are due for release, probation or pardon. In June 2004, the launching of the project was attended by the Chief Justice, judges and lawyers from IBP and the Supreme Court, and representatives from the United States Agency for International Development and The Asia Foundation. The paralegal training is set to commence in July 2004.

ePolicy Pilot Project with the National Telecommunications Commission. The Asia Foundation provided a grant to the Cyberspace Policy Center for the Asia-Pacific to improve, with the use of technology, public-private sector collaboration, specifically in development of a web-based process of authoring and managing administrative regulations. The system will track the lifecycle of administrative rule-making from the introduction of a regulation until it is formally issued, while allowing input on the regulation by citizens and interest groups at various stages of the process. With the use of a common software environment, provided that all other infrastructure is in place, the exchange of documents throughout the rule or policy-making process, with real-time access to information, and interactive participation in the formulation of the text of implementing rules and regulations will be made possible. This pilot project will design an ePolicy Facility for the National Telecommunications Commission, an agency that issues numerous regulations that affect the interests of conflicting stakeholders, and hopefully, will result in a working "proof of concept" model that could be adopted by other executive agencies and by members of the Philippine Congress.

During this reporting period, Cyberspace Policy Center for the Asia-Pacific had initial meetings with its key consultants and from the Commission for process development planning. Actual process development is expected to begin in July 2004.

Related Conferences

During this reporting period, the Foundation supported the participation of Judge Sixto Marella, Jr., Executive Judge of the Regional Trial Court Branch CXXXVIII of Makati, to attend The World Jurist Association's "Conference on Privatization, Banking, and Cross-border Insolvency" in Rome, Italy, May 3-May 6, 2004. The Conference examined privatization, banking, and cross-border insolvency. In addition to foreign trade and investment policies, the Conference also examined globalization and regional economic integration, the World Trade Organization, recent trends in cross-border insolvency, offshore banking and other pertinent issues. Judge Marella noted that the Conference was very useful to his work not only as a judge presiding over a special commercial court, (which has exclusive jurisdiction over cases of corporate rehabilitation and liquidation, intra-corporate disputes and intellectual property), but also as an executive judge of Makati.

The Foundation will partner with the Philippine Judicial Academy to organize a roundtable discussion for commercial court judges, which will serve as venue for Judge Marella to share important lessons learned on privatization, banking, cross-border insolvency and other issues he gleaned from the Conference. This roundtable is tentatively planned to take place in August 2004.

The Foundation also supported the participation of Court of Appeals Justice Lucas P. Bersamin to the Annual Intensive Study Programme for Judicial Educators held in Halifax, Canada, June 13–July 3, 2004. This eleventh annual study program is the Commonwealth Judicial Education Institute's flagship program, which has established a network of Commonwealth judicial educators knowledgeable in judicial education techniques and methodology to create and deliver judicial education curricula supportive of contemporary judicial reform. The Intensive Study Programme provided the participants an opportunity to meet other judicial educators who are engaged in similar judicial education/reform work; exchange ideas on how to solve common problems and meet similar challenges; complete assignments that will be of assistance to their home country; develop teaching tools for use in their own judicial education programs; and visit Canadian pilot/model court programs. The Foundation believes the program would be useful to the PhilJA, which has been mandated by law as a training school for justices, judges, court personnel, lawyers and aspirants to judicial posts, in enhancing the quality of judicial education in the Philippines.

Plans for the Next Period

During the next reporting period, The Asia Foundation plans to implement activities to institutionalize Court of Appeals mediation, which will start with the training of trainer's and the development of mediation modules and case studies for future mediators. Expansion of the lower court mediation will also be pursued. Mediation training for Chief Executive Officers and Chief Operating Officers of the different Chambers of Commerce will be conducted, followed by the setting up of mediation units in the different Chambers of Commerce. Support to the Department of Justice's technical working group drafting the rules and regulations on the Alternative Dispute Resolution Law of 2004 will also be initiated. Popularization of the Alternative Dispute Resolution Law will be launched with the country's arbiters and mediators. This will be part of a series of small advocacy meetings which will be launched in order to sustain the current interest in ADR brought about by passage of the law and the series of Supreme Court Guidelines issued on court annexed mediation. These small advocacy meetings also will provide stakeholders a venue for dialogue and exchange. The Foundation-hosted ADR Roundtable will be sustained through the active participation and involvement of the Philippine Judicial Academy, the CORE Group, the Cebu Mediation Foundation, Inc., Cyberspace Policy Center for Asia and the Pacific, and Mediators' Network, Philippine Chamber of Commerce and the Construction Industry Arbitration Council, among others.

Implementation of the online dispute resolution system will commence with the establishment of the technical infrastructure, as well as the legal and regulatory environment required for an Online Dispute Resolution service.

A nationwide Judiciary-Civil Society consultation is planned in order to begin the process of creating an alternative feedback mechanism to assist the Judiciary to become more transparent, accountable and responsive to the needs of the people.

Challenges in Implementing the Program

Implementation of the Legal Accountability and Dispute Resolution (LADR) program during this period was generally successful. Major projects and partnerships were launched during this period, with the Supreme Court adopting most of LADR projects.

Program management was smooth as a result of monitoring schemes that were put in place during the last reporting period. The process has enabled the Law Unit of the Foundation to efficiently keep track of the progress of project activities implemented by its partner institutions. The submission of workplans by LADR partners, as well as more frequent progress reports, have enabled the Foundation to constantly monitor project activities and ensure more timely delivery of project outputs.

The premature maternity leave of the Foundation's LADR program officer, however, stalled the finalization of some activities. To address this problem, a new program officer has been temporarily hired to assist in the management of the LADR program.

There were no major delays experienced during this reporting period compared to previous reporting period where both external and internal factors in implementing project activities by some partner organizations were reported.

The primary challenge that is continually being encountered by the Foundation is the extreme sensitivity of dealing with questions concerning judicial corruption. Particularly heightened by the impeachment proceedings, and taking into consideration the Foundation's positive rapport with the Supreme Court on its judicial reform initiatives, difficulty is still being experienced in mounting an anti-corruption project at this time.

As the Foundation pursues implementation of the program, it anticipates various challenges will arise due to the continuous surge of proposed activities from current and new partners, as well as consequences arising from national and local elections. For instance, the current acting Secretary of the Department of Justice, who has been very supportive of mediation, might not be reappointed. If a new individual is appointed, the Foundation will have to work anew with whoever is appointed as Secretary. The appointment of people who will be sitting in the technical working group to draft the ADR Law of 2004 Rules and Regulations is currently on hold.

Another major challenge that the Foundation must responded to, even at this early stage, is the sustainability of the judicial reforms process. This is because the term of the Chief Justice, who is the acknowledged leader of Philippine judicial reform, will end next year. Hopefully, the approval of the unsolicited LADR proposal will help us in this respect. The Asia Foundation is vigilantly repositioning itself in order to respond to the exit of the Chief Justice, as well as respond to any unforeseen challenges, in order to be able to make sensitive adjustments to program strategies.